

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA, )  
vs. ) DOCKET NO. 3:14-CR-232  
TONY LEE DRUM, )  
Defendant. )

TRANSCRIPT OF SENTENCING HEARING  
BEFORE THE HONORABLE MAX O. COGBURN, JR.  
UNITED STATES DISTRICT COURT JUDGE  
TUESDAY, JULY 14, 2015 AT 11:40 A.M.

## APPEARANCES:

On Behalf of the Government:

KIMLANI MURRAY FORD, ASSISTANT U.S. ATTORNEY  
U.S. Attorney's Office  
227 W. Trade Street, Suite 1650  
Charlotte, North Carolina 28202

On Behalf of the Defendant:

RANDOLPH MARSHALL LEE, ESQ.  
Law Offices of Randolph Marshall Lee  
P.O. Box 77005  
Charlotte, North Carolina 28271

JILLIAN M. TURNER, RMR, CRR, CLR  
Official Court Reporter  
United States District Court  
Charlotte, North Carolina

1 (Tuesday, July 14, 2015 at 11:45 a.m.)

2 P R O C E E D I N G S

3 (Counsel and defendant present.)

4 THE COURT: Okay. Call the case of United States v.  
5 Tony Lee Drum.

6 Is the defendant ready?

7 MR. LEE: Good morning.

8 THE COURT: Is the Government ready?

9 MS. FORD: Yes, sir.

10 THE COURT: All right.

11 Mr. Drum, do you recall appearing before United  
12 States Magistrate Judge for the purpose of entering a plea of  
13 guilty in this case?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you remember being placed under oath  
16 at that time?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you remember answering the questions  
19 of the judge?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you remember signing a plea  
22 transcript form indicating your answers were true and correct  
23 at the time they were given?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Did you tell the judge the truth that

1 day?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: If I were to ask you the same questions  
4 today, would your answers be the same?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Thank you. Counsel, do you believe your  
7 client understood fully the questions the magistrate judge  
8 asked at the Rule 11 hearing?

9 MR. LEE: Yes, sir, I do.

10 THE COURT: All right. Thank you.

11 Mr. Drum, did you answer the questions the way you  
12 did, and are you going forward with your guilty plea today  
13 because you did commit the crime you're pleading guilty to?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. And based upon those  
16 representations and the answers given by the defendant at  
17 Rule 11 hearing before the magistrate judge, the Court affirms  
18 the judge's finding that the defendant's plea was knowingly  
19 and voluntarily made. The Court also affirms the judge's  
20 finding that the defendant understood the charges, the  
21 potential penalties and the consequences of his plea.  
22 Accordingly, the Court affirms the magistrate judge's  
23 acceptance of the defendant's plea of guilty at the Rule 11  
24 hearing.

25 Would the Government have a factual basis in this

1 case?

2 MS. FORD: The Government would rely on the facts as  
3 cited in the presentence report.

4 MR. LEE: And we so stipulate, Your Honor.

5 THE COURT: Thank you. Based upon that stipulation  
6 and the offense conduct as set forth in the presentence  
7 report, the defendant's plea of guilty before the magistrate  
8 judge and the defendant's admissions in open court today, the  
9 Court finds there is a factual basis for the entry of the plea  
10 of guilty and enters a verdict and judgment of guilty in this  
11 case.

12 Now, Mr. Drum, your case was referred to the United  
13 States Probation Office for a presentence investigation and  
14 the preparation of a presentence investigation report. The  
15 Court has now received that report.

16 Have you read that report?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have you gone over that report with your  
19 attorney?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you now believe you understand the  
22 contents of that report?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Counsel, have you gone over that report  
25 with your client, and do you believe he understands the

1 contents of that report?

2 MR. LEE: I have been over the draft report, the  
3 final report and the final revised report that came out  
4 yesterday afternoon. We have been over all three. He  
5 understands it. We've reviewed it.

6 THE COURT: And he does understand the contents?

7 MR. LEE: He does.

8 THE COURT: Are there any objections to the  
9 presentence report that remain outstanding today?

10 MR. LEE: Well, the Government conceded some of the  
11 objections yesterday afternoon. I filed objections whenever  
12 it was, several months ago. I have not talked to Mr. Drum  
13 about maintaining those objections. I think the better course  
14 may be for the Court just to overrule those objections for the  
15 record today and move forward.

16 THE COURT: Well, let me look at those. If you're  
17 going to abandon them, I certainly will. If the defendant  
18 wants to go forward with those, then I rather go over them and  
19 make a decision on each one individually.

20 MR. LEE: If we may have just a moment, Your Honor.

21 THE COURT: All right.

22 (Counsel and defendant conferred off the record.)

23 MR. LEE: Your Honor, I have conferred with  
24 Mr. Drum. We will abandon those other objections which remain  
25 outstanding.

1                   THE COURT: Okay.

2                   MR. LEE: I will tell the Court the parties have  
3 been involved in intensive negotiations since yesterday. The  
4 parties would make a joint guideline recommendation to the  
5 Court. And with that understanding, we withdraw those  
6 objections.

7                   THE COURT: All right. Then the Court -- any  
8 objections from the Government in with regard to?

9                   MS. FORD: No, sir.

10                  THE COURT: All right. Then it would appear that in  
11 the revised report, that we have a total offense level of 35  
12 and a criminal history category of II, with a guideline  
13 sentencing of 188 to 235 months.

14                  Does the defense agree?

15                  MR. LEE: We do agree, Your Honor.

16                  THE COURT: Does the Government agree?

17                  MS. FORD: Yes, sir.

18                  THE COURT: All right. Then based upon the  
19 agreement of both sides, the Court will accept the probation's  
20 guideline calculation and will then hear on sentencing with a  
21 guideline sentencing range of 188 months to 235 months.

22                  MR. LEE: Thank you, sir.

23                  THE COURT: So the defendant may be seated briefly  
24 while you argue.

25                  MR. LEE: Your Honor, the parties will be making a

1 recommendation jointly to the Court for a sentence at the low  
2 end of 188 months.

3 Part of practicing law or advocacy is when not to  
4 speak. I don't want to say too much to run the risk of  
5 jeopardizing this joint recommendation.

6 I will tell the Court that Mr. Drum has been  
7 thoroughly investigated backwards and forwards and sideways by  
8 four investigative agencies. The U.S. Attorney's Office is  
9 very familiar with the facts of this case, with Mr. Drum, with  
10 the victims, and with people that I would refer to as  
11 unindicted co-conspirators, and he would call on some others.

12 In considering the Court's jurisdiction under  
13 3553(a) and its factors, I believe, as Mr. Drum's attorney,  
14 that a sentence at the low end of 188 months meets those  
15 factors.

16 Mr. Drum I'm sure would like to address the Court at  
17 some point before the Court imposes sentence. But my  
18 recommendation is 188 months, Your Honor.

19 THE COURT: All right, sir. What would you like to  
20 say, Mr. Drum?

21 THE DEFENDANT: I'd like to apologize for my crimes  
22 I've committed. I was at a low point in my life. I just lost  
23 my family and I was drinking heavily every day and on drugs  
24 every day, and I regret any pain that I caused the victims. I  
25 truly do. I wish they were here today so they can hear my

1 apology. I mean, normally I wouldn't do something like that.  
2 I'm going to try to better myself during my incarceration and  
3 come out and be a good citizen.

4 MR. LEE: And if I could, Your Honor. We talked  
5 about what he might want to address the Court with today. He  
6 left a couple of things out. I'd like to go ahead and fully  
7 inform because he's nervous right now.

8 Mr. Drum fell into using the internet and these  
9 websites and chat rooms and was fairly active in those.  
10 Because of his family circumstances he's just made known to  
11 the Court, he was heavily involved in these means of  
12 communication. This is not a case where Mr. Drum is riding  
13 down the street in a white paneled van passing out candies to  
14 kids. I do believe that his peculiar circumstances with his  
15 wife leaving him and taking their kids to Alabama left him in  
16 somewhat a vulnerable state. He made some gross mistakes of  
17 judgment. He did believe, I believe, that the victims were  
18 over the age of 16. That's still below the threshold for  
19 federal purposes.

20 Life is complicated. The facts of this case and the  
21 people involved in this case were complicated. And I mention  
22 all of that as a very shorthand way of trying to communicate  
23 to the Court that I don't believe that Mr. Drum is an evil  
24 person. I don't think that he's a repeat serial pedophile,  
25 and here we are.

1                   THE COURT: Okay. Anything else, Mr. Drum?

2                   THE DEFENDANT: No, sir.

3                   THE COURT: Let me hear from the Government.

4                   MS. FORD: Your Honor, the Government joins in the  
5 recommendation and is asking that Your Honor sentence Mr. Drum  
6 to 188 months. I believe that's a sentence that's sufficient,  
7 but not greater than necessary, to accomplish the goals  
8 enumerated in 18 U.S.C. 3553.

9                   Your Honor, Mr. Drum pled straight up and didn't  
10 waive his right to appeal, so I do need to put some things on  
11 the record should the sentence be reviewed at the appellate  
12 level.

13                   Your Honor, I think this offense really comes down  
14 to two things: Greed and laziness.

15                   I think Mr. Drum living with the co-conspirators  
16 that his lawyer mentioned saw what was going on with them, saw  
17 that two of them were involved in a impromptu relationship and  
18 thought, hey, that might be an easy way to make some money.  
19 So -- and at the same time, he was going into these chat rooms  
20 and on social media what I would call "fishing for girls."  
21 Throwing out some lines and catching girls here and there.  
22 And one of the girls that he was talking to was a 16 year old  
23 down in South Carolina, and she had her own issues going on.  
24 That's why there was a vulnerable victim enhancement applied  
25 in her case.

1           She was unhappy at home. She wasn't doing good in  
2 school. In fact, she had gotten kicked out and she wanted to  
3 leave home. She met him. He agreed to bring her back to  
4 North Carolina. And, Your Honor, he pled guilty to the  
5 transporting her to come up here to prostitute and also sex  
6 trafficking a minor. He knew before he went to South Carolina  
7 to pick her up that she was 16, that she would be coming back  
8 to North Carolina to prostitute and that she was vulnerable.  
9 She may have wanted to come with him, but I don't think  
10 consent really has anything to do with the offense.

11           She did come back here. She worked as a prostitute  
12 for him. He would say and he has said that he wasn't her  
13 pimp, but I would argue, Your Honor, that everything he did  
14 showed that he was actually her pimp. He drove her to "work."  
15           And I use the term "work" loosely. He drove her to see  
16 clients. He provided her with a phone. He would watch her on  
17 occasion to make sure she was safe but also, you know, make  
18 sure she was working I would argue. And eventually he had  
19 control over the money. The money that she made was used to  
20 support them, and that's why I say greed is one of the factors  
21 because he wasn't working and he needed money to pay for the  
22 hotel room he was living in, to pay for food, to pay for beer,  
23 pay for drugs, to pay for his rental car. And all that money  
24 came in part -- or that money came in part from the girl from  
25 South Carolina.

1                   Well, and there were -- there was a time, I believe,  
2 as it's supported by the exhibits that I filed yesterday,  
3 there were times when she didn't want to work and he  
4 encouraged her to work because they needed a place to live,  
5 they needed food and she continued to work.

6                   She continued to work until an alert officer saw her  
7 walking down the street and said to himself that girl looks  
8 out of place, she looks young, let me go talk to her. And in  
9 talking to her found out about her situation; that she was a  
10 missing juvenile and that she was working for the defendant  
11 who she called her boyfriend.

12                  That put into motion the prosecution side of this.  
13 They took out warrants on him, but they couldn't find him.  
14 And once they did find him a couple weeks later, they went  
15 looking at him for at a hotel and found the second girl in his  
16 car.

17                  So what had happened was D.W., the girl from South  
18 Carolina, was encountered by the police and obviously stopped  
19 working for him. And a couple days later he's back on social  
20 media looking for another girl and he finds the other girl in  
21 Tennessee. She, too, is vulnerable. She's been abused by her  
22 parents. She's living on the streets. She's homeless. She's  
23 staying with crack heads when she's had the opportunity and  
24 she wanted out. So when he provided her the opportunity to  
25 leave, she took advantage of it and said, yeah, I'm going to

1 go with you to North Carolina.

2                   And again -- and again, before he went to pick her  
3 up in Tennessee, he knew she was 16. He knew she was coming  
4 back to North Carolina to prostitute, and he knew she was  
5 vulnerable. He knew her circumstances.

6                   Unfortunately for him, when she got back to North  
7 Carolina she decided she didn't want to prostitute and she  
8 didn't do it. She refused to do it.

9                   So for a third time he starts looking for another  
10 girl. This one by the name of Candace. I don't know if  
11 that's her true name. And that was Exhibit 4 shows some of  
12 the texts between him and Candace where he called himself a  
13 pimp and talks about her working.

14                   So I believe, Your Honor, that based on the nature  
15 and circumstances of the offense and the need for the sentence  
16 to reflect the seriousness of the offense, to promote respect  
17 for the law, that 188 months is appropriate.

18                   I want to mention two other factors. Your sentence  
19 has to afford adequate deterrence to him and others and to  
20 protect the public from his actions.

21                   Like I said, Your Honor, he was in the process of  
22 finding a third girl, finding another girl when he was  
23 arrested for the sex trafficking with D.W. So I do believe  
24 there is an element of deterrence and protection of the public  
25 that needs to be addressed here.

1                   188 months is a pretty significant sentence I would  
2 argue. A little over 15 years. And I think that, like I said  
3 before, it is one that the facts warrant. And I would ask  
4 Your Honor to impose it.

5                   THE COURT: Let me ask this question from the  
6 Government: What is it about the case that causes the  
7 Government to recommend at the low end of the guidelines  
8 versus 235 months?

9                   MS. FORD: I think that the base offense level and  
10 the enhancements are appropriate. I think that the offense  
11 conduct and the enhancements capture the offense conduct.  
12 There were enhancements for the girls being vulnerable. There  
13 was an enhancement for undue influence and the base offense  
14 level starts out at a 30. So I think that the guidelines  
15 truly capture the offense conduct.

16                   There was also a multiple count adjustment because  
17 there were two girls involved. I also think that it -- he got  
18 a three-level reduction because he came in here and pled  
19 guilty.

20                   Your Honor, I've prosecuted now four sex  
21 traffickers. He's the first one to plead guilty. I've had  
22 two trials in the last two years. And so I think the  
23 combination of the base offense level being 30, the  
24 enhancements and then the reduction, that the total offense  
25 level adequately captures the offense conduct and that low end

1 is appropriate, and that's what I have to say about that.

2 THE COURT: Okay.

3 MS. FORD: And one more thing I do want to say.  
4 Obviously, I believe that the crime is serious, but one thing  
5 that he didn't do that some other sex traffickers that I've  
6 prosecuted have done is use violence. And if that had been  
7 involved -- well, his mandatory minimum would have been  
8 higher, but I'm sure the guidelines would have been higher,  
9 too, if he had used violence. So that's another reason why I  
10 don't think that the high end is appropriate.

11 THE COURT: Okay.

12 Bad situation. Very bad crime. In looking at the  
13 3553 factors, the seriousness of the offense, very, very  
14 serious. To protect the public from the other crimes of this  
15 defendant, very necessary. To keep others from committing the  
16 same crime, very, very important in this case. To promote  
17 respect for the law, all of those things -- all of the 3553  
18 factors that talk about the seriousness. This is a serious  
19 crime. I mean, we get people in here who are looking at bad  
20 stuff on the computer in their basement and they get --  
21 there's some big guidelines on those people, and sometimes we  
22 have no evidence they've ever committed a crime against  
23 somebody.

24 This guy did commit a crime against these young  
25 ladies. They are minors. Now they're older minors. We see

1 most of these child porn cases are for much younger minors,  
2 but they're still minors. The law is still there. And this  
3 certainly could get a higher sentence than 188 months.

4 The Government has -- has afforded very, very strong  
5 prosecutor who does not make recommendations lightly. So she  
6 has analyzed this case on behalf of the United States, and she  
7 believes the reasons given this case should be 188 months.  
8 The Court is going to listen to that, but I could very  
9 seriously on a case where I'm -- where an actual person is  
10 involved in a offense like this go higher. It's not just  
11 looking at pictures. He's -- for whatever reason, he's chosen  
12 to violate the law and has damaged the lives of these young  
13 ladies in ways that we can only guess how that would play out  
14 over the rest of their lives.

15 So when I get somebody in here who has actually done  
16 -- actually participated in these kind of things rather than  
17 just looked at pictures, I realize that's a bad thing and  
18 terrible thing and they've got to be punished for that because  
19 there's a reason all this stuff is going on. When I get  
20 somebody in here that's really done it, it really bothers the  
21 Court.

22 And this is a very -- this is a serious sentence,  
23 but it's certainly well deserved and I could have gone easily  
24 gone higher. But again, Ms. Ford let me tell you is a tough  
25 prosecutor right here. If she thinks this is the right

1 sentence for the people and the defense wants this, I'm going  
2 to go ahead.

3 Another thing the Court considers is the ability of  
4 getting pleas and the belief that when people come in and work  
5 out deals that they have meaning, and I can find nothing wrong  
6 with this sentence after Ms. Ford has explained this to the  
7 Court. But my first instinct would have been a higher  
8 sentence.

9 So just understand that these are serious, serious  
10 crimes. But this is more -- this a more than 15-year sentence  
11 for a defendant whose criminal record is not as serious as  
12 some that come before the Court.

13 He had a -- he was on for a larceny case that he  
14 received unsupervised probation. Because of that, he had  
15 gotten plus two, which pushed him up to level two rather than  
16 level one. So I've seen a lot more serious records than this,  
17 but this is a serious crime.

18 Okay. Anything further from the defense before I  
19 pronounce sentence?

20 MR. LEE: No, sir.

21 THE COURT: Pursuant to the Sentencing Reform Act of  
22 1984 and U.S. v. *Booker*, it is the judgment of the Court,  
23 having considered the factors noted in 18 United States Code,  
24 Section 3553(a), as been previously stated, that the defendant  
25 Tony Lee Drum is hereby committed to the custody of the United

1 States Bureau of Prisons to be in a prison for a term of 188  
2 months on each count to be served concurrently.

3                   The Court recommends the defendant participate in  
4 any sex offender treatment program while incarcerated if  
5 eligible.

6                   The Court calls to the attention of the custodial  
7 authorities the defendant has a history of substance abuse and  
8 recommends the defendant be allowed to participate in any  
9 available substance abuse treatment programs while  
10 incarcerated; and if eligible receive benefit of 18 United  
11 States Code, Section 3621(e) (2) .

12                  It is further ordered defendant be required to  
13 support all dependents from prison earnings while  
14 incarcerated, as outlined in the presentence report.

15                  Upon release from imprisonment, the defendant shall  
16 be placed on supervised release for a term of life on each  
17 count, all such terms to run concurrently. Within 72 hours of  
18 release from the custody of the Bureau of Prisons, defendant  
19 shall report in person to the probation office in the district  
20 to which the defendant is released.

21                  While on supervised release, the defendant shall not  
22 commit another federal, state or local crime, shall comply  
23 with the standard conditions that have been adopted by the  
24 Court in the Western District of North Carolina, and shall  
25 comply with the following additional conditions:

1                   The defendant shall submit to with location  
2 monitoring technology with GPS, for a period of 12 months and  
3 comply with its requirements as directed. The defendant shall  
4 maintain a telephone at the defendant's place of residence  
5 without any call forwarding, Caller ID services, call waiting,  
6 dial-up computer modems, 1-800 long distance call block, fax  
7 machine, voice over internet protocol, burglar alarm or  
8 three-way calling service. This is to be a clear line with  
9 nothing on it.

10                  Defendant is to pay for the cost of location  
11 monitoring portion of this sentence not to exceed the daily  
12 contractual rate. Payment for location monitoring shall be  
13 made in accordance with the probation officer's direction.  
14 Changes to the established rate can be made by the probation  
15 officer subject to supervisory approval.

16                  The defendant shall have no direct or indirect  
17 contact for any reason with the victims, the victim's family,  
18 or the affected parties in this matter unless provided with  
19 specific written authorization to do so in advance by the  
20 United States probation officer.

21                  The defendant shall submit to a psycho-sexual  
22 evaluation by a qualified mental health professional  
23 experienced in evaluating and managing sexual offenders as  
24 approved by the U.S. probation officer. The defendant shall  
25 complete the treatment recommendations and abide by all of the

1 rules, requirements and conditions of the program until  
2 discharged. Defendant shall take all medications as  
3 prescribed.

4                   Defendant shall submit to risk assessments,  
5 psychological and physiological testing, which may include,  
6 which is not limited to, a polygraph examination and/or  
7 Computer Voice Stress Analyzer, or other specific tests to  
8 monitor the defendant's compliance with supervised release and  
9 treatment conditions at the direction of the U.S. probation  
10 officer.

11                  Defendant's residence and employment shall be  
12 approved by the U.S. probation officer. Any proposed change  
13 in residence or employment must be provided to the United  
14 States probation officer at least 10 days prior to the change  
15 and pre-approved before the change may take place.

16                  The defendant shall not possess any materials  
17 depicting and/or describing child pornography and/or simulated  
18 child pornography as defined in 18 United States Code  
19 Section 2256, nor shall the defendant enter any location where  
20 such materials can be accessed, obtained or viewed, including  
21 pictures, photographs, books, writings, drawings, videos, or  
22 video games.

23                  The defendant shall comply with the requirements of  
24 the Sex Offender Registration Notification Act, 42 United  
25 States Code, Section 16901 and those that follow, as directed

1 by the probation officer, the Bureau of Prisons, or any state  
2 sex offender registration agency in which the defendant  
3 resides, works, is a student, or was convicted of a qualifying  
4 offense.

5                   Defendant shall not associate or have verbal,  
6 written, telephonic, or electronic communications with any  
7 person under the age of 18 except: In the presence of the  
8 parent or legal guardian of said minor; on the condition that  
9 the defendant notifies the parent or legal guardian of their  
10 conviction or prior history; and has written approval from the  
11 U.S. probation officer. This provision does not encompass  
12 persons under the age of 18, such as waiters, cashiers, ticket  
13 vendors, et cetera, with whom the defendant must deal with in  
14 order to obtain ordinary and commercial services.

15                   Defendant shall not loiter within 100 feet of any  
16 parks, school property, playgrounds, arcades, amusement parks,  
17 daycare centers, swimming pools, community recreation fields,  
18 zoos, youth centers, video arcades, carnivals, circuses or  
19 other places primarily used or can reasonably be expected to  
20 be used by children under the age of 18, without prior written  
21 permission of the United States probation officer.

22                   Defendant shall not purchase, possess, or control  
23 cameras, camcorders, or movie cameras without prior approval  
24 of the U.S. Probation Office.

25                   Defendant shall not use, purchase, possess or

1 procure, or otherwise obtain any computer or electronic device  
2 that can be linked to any computer networks, bulletin boards,  
3 internet, internet service providers, or exchange formats  
4 involving computers unless approved by the U.S. probation  
5 officer. Such computers, computer hardware or software is  
6 subject to warrantless searches and/or seizures by the U.S.  
7 Probation Office.

8                   And that's certainly going to be left up to the U.S.  
9 Probation Office to determine. It's very difficult in this  
10 world not to have a computer, but that's the way people are  
11 reaching each other. This is not unusual. You mentioned it's  
12 not passing out candy in the park. People don't do that  
13 anymore. They go on the internet where all these kids have  
14 computers and they lure them. I mean, everything is being  
15 done by computer. Everybody is dating by computer. Swipe  
16 left to right to get a date. You know, people aren't going  
17 out the traditional ways anymore and they're not looking for  
18 trouble in traditional ways. It's all being done by computer.  
19 So he's going to wind up -- if he's got a computer, then he's  
20 going to be -- he's going to be watched.

21                   Therefore, the defendant shall not use or have  
22 installed any programs specifically and solely designed to  
23 encrypt data, file folders, or volumes of any media. The  
24 defendant shall, upon request, immediately provide the  
25 probation officer with any and all passwords required to

1 access data compressed or encrypted for storage by any  
2 software.

3                   Defendant shall provide a complete record of all  
4 passwords, internet service providers, e-mail addresses,  
5 e-mail accounts, screen names, et cetera, to the probation  
6 officer and shall not make any changes without the prior  
7 approval of the U.S. probation officer.

8                   Defendant shall not use, possess, or control any  
9 bootable linux or counter forensic tools.

10                  Defendant shall not have any social networking  
11 accounts without the approval of the U.S. probation officer.  
12 So they know everything that's going on.

13                  During the period of probation or supervised  
14 release, the defendant shall notify all employers, family,  
15 friends, and others with whom they have regular contact of the  
16 defendant's conviction and/or history as a sex offender and  
17 that the defendant is being supervised by a U.S. probation  
18 officer.

19                  This particular thing after what number of years the  
20 U.S. Probation Office believes that the defendant needs to  
21 have some relief and in regard to the employers, I'll leave it  
22 in the option of the probation office.

23                  THE PROBATION OFFICER: Yes, sir.

24                  THE COURT: To do that at some point after the  
25 defendant has been on it for a while.

1                   The defendant shall not engage in any forms of  
2 exhibitionism, voyeurism, obscene phone calls, or other lewd  
3 or lascivious behavior, nor shall the defendant engage in any  
4 form of grooming behavior that is meant to attract, seduce, or  
5 reduce resistance or inhibitions of a potential victim.

6                   The defendant shall not be employed in any position  
7 or participate as a volunteer in any activity that involves  
8 direct or indirect contact with children under the age of 18,  
9 without prior written permission from the U.S. Probation  
10 Office. Under no circumstances may the defendant be engaged  
11 in a position that involves being in a position of trust or  
12 authority over any person under the age of 18.

13                  Defendant shall not possess any legal or illegal  
14 pornographic material, nor shall the defendant enter any  
15 location where such material can be accessed.

16                  Defendant shall not possess any illegal pornographic  
17 material, nor shall defendant enter any location where those  
18 can be accessed, obtained and viewed, including pictures,  
19 photographs, books, writings, drawings, videos, or video  
20 games.

21                  In terms of any kind of legal material, it's going  
22 to be up to the defendant. He better be careful about where  
23 he goes in regard to viewing any kind of material that he  
24 views. I'm not going to block him from the rest of his life.  
25 I'm not going to do that. Legal material.

1                   All right. It's further ordered defendant shall pay  
2 the United States a special assessment of \$400.

3                   The Court finds the defendant does not have the  
4 ability to pay a fine or interest. And having considered the  
5 factors noted in 18 United States Code, Section 3572(a), will  
6 waive payment of a fine and interest in this case.

7                   Payment of the criminal monetary penalty of \$400 is  
8 due and payable immediately.

9                   The Court has considered the financial and other  
10 information contained in the presentence report and finds that  
11 the following is feasible:

12                   If the defendant is unable to pay any monetary  
13 penalty immediately, during the period of imprisonment  
14 payments shall be made through the Federal Bureau of Prison's  
15 Inmate Financial Responsibility Program. Upon release from  
16 imprisonment, any remaining balance shall be paid in monthly  
17 installments of not less than \$50 to commence within 60 days  
18 until paid in full. However, after a long incarceration and  
19 the restrictions for employment placed on this defendant, that  
20 can be modified if the defendant is unable to obtain  
21 employment in 60 days.

22                   THE PROBATION OFFICER: Yes.

23                   THE COURT: So throughout the period of supervision  
24 the probation officer shall monitor the defendant's economic  
25 circumstances and shall report to the Court, with

1 recommendations as warranted, any material changes that affect  
2 the defendant's ability to pay any court ordered penalties.

3 This is a severe sentence, but it is necessary in  
4 this case because of the active involvement of the defendant  
5 with minors.

6 Is there any legal reason why this should not be the  
7 sentence in this case?

8 MR. LEE: Can I have just a moment, Your Honor?

9 THE COURT: You may.

10 (Counsel and defendant conferred off the record.)

11 MS. FORD: No, sir. But I do want to make sure that  
12 I'm able to address victim notification and restitution at the  
13 appropriate time.

14 THE COURT: Yes, please do.

15 MS. FORD: The U.S. Attorney's Office has and  
16 Special Agent Harrison have been in contact with both victims  
17 and/or their guardians. Neither victim nor their guardians  
18 wish to be here today. One did submit a victim impact  
19 statement, which I filed and I'm sure Your Honor has reviewed  
20 that.

21 THE COURT: I did.

22 MS. FORD: With regard to restitution, D.W., the  
23 victim in South Carolina, neither she nor her guardian wanted  
24 to submit any claim for restitution.

25 As for the other victim, at first the agency that's

1 been helping her was interested in trying to make a claim for  
2 restitution, but they've never provided me, despite like  
3 overtures, any figure or any receipts to support the figure.  
4 So the Government is not asking for any restitution in this  
5 case.

6                 One other thing I'll say about victim -- the victim  
7 D.W. in SC. She received -- well, her guardian intercepted a  
8 letter written to her from the defendant. I think it was  
9 about a month ago. And neither she nor her guardians want  
10 anything to do with the defendant anymore. They've chosen not  
11 to be here today --

12                 THE COURT: It's clearly a part of this sentence  
13 he's to have no contact.

14                 MS. FORD: I heard Your Honor say that. I do want  
15 to make sure that he realizes that he could be eligible for  
16 good time in the BOP; and that it's possible that if he  
17 attempts to contact the victims, that his good time will be at  
18 risk. So I just ask that he not contact the victims.

19                 THE COURT: Yeah, you'll be eligible -- this  
20 sentence, roughly you'll be eligible for over two years of  
21 good time, almost two and a half years of good time on this  
22 sentence, not quite. Probably -- probably two years and --  
23 probably 2.25 years, somewhere around there for good time. So  
24 do not be contacting these ladies. They were children at the  
25 time under the law, and they do not want contact and they're

1 not -- and this is in the judgment -- to be contacted.

2 Do you understand that, sir?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right.

5 Any legal reason from the defense why this should  
6 not be the sentence in this case?

7 MR. LEE: No, sir.

8 THE COURT: All right. That is the sentence in this  
9 case.

10 Now, Mr. Drum, you have a right to appeal this  
11 sentence to the Fourth Circuit Court of Appeals, this  
12 conviction and sentence. Any appeal must be done in writing  
13 and must be done within 14 days from the written entry of  
14 judgment in this case.

15 If you wish to appeal and cannot afford to appeal,  
16 you may appeal at government expense. The Clerk of the Court  
17 would be willing to file a notice of appeal if you would so  
18 request to do that. I would ask that you speak with very able  
19 counsel about your appellate rights and whether in this  
20 circumstance you wish to exercise those rights.

21 However, do you understand your right to appeal as  
22 I've just explained it to you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Anything further from the  
25 defense?

1 MR. LEE: No, sir.

2 THE COURT: Anything further from the Government?

3 MS. FORD: No, sir.

4 THE COURT: This matter is concluded. Thank you.

5 (The proceedings were recessed at 12:00 p.m.)

6 \* \* \*

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA

CERTIFICATE OF OFFICIAL REPORTER

I, Jillian M. Turner, RMR, CRR, CLR, Federal Official Court Reporter, in and for the United States District Court for the Western District of North Carolina, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this the 5th day of October 2015.

/s/ Jillian M. Turner  
Jillian M. Turner, RMR, CRR, CLR  
U.S. Official Court Reporter